

AMENDED IN SENATE MAY 2, 2006
AMENDED IN SENATE APRIL 17, 2006
AMENDED IN SENATE APRIL 4, 2006

SENATE BILL

No. 1635

Introduced by Senator Poochigian

February 24, 2006

An act to ~~amend Section 2933 of, and to~~ add Sections 2933.7, 2933.8, and 2933.9 to, the Penal Code, relating to inmates.

LEGISLATIVE COUNSEL'S DIGEST

SB 1635, as amended, Poochigian. Inmates: work credits.

Existing law authorizes the Department of Corrections and Rehabilitation to reduce an inmate's sentenced term of imprisonment through the accumulation of good-behavior credits, and worktime credits by performance in work, training, and education programs.

This bill would state that an inmate shall earn those credits only if he or she is an active participant and completes the program. The bill would render the inmate ineligible for credits for performance in a work, training or education program if he or she elects to leave the program prior to its completion without proper cause, or if the inmate is removed from the program due to misconduct or inadequate effort. However, the bill would authorize an inmate to retain credits earned if he or she leaves a program for good cause, but subsequently completes the program. This bill would require the Department of Corrections and Rehabilitation, in consultation with the Corrections Standards Authority, to adopt regulations to administer the program. The bill would require the office of the Inspector General to evaluate and report annually on the credit policy mandated by this bill.

~~Under existing law, if an inmate is willing to participate in a credit qualifying program but is not assigned to such a program full time, he or she is entitled to receive credits for that program as if he or she were assigned to it.~~

~~This bill would delete that provision.~~

Existing law provides for various work and educational programs in the prisons.

This bill would require the department to evaluate all inmates admitted to the custody of the department after January 1, 2007, and other inmates already in the custody of the department, for their educational and vocational capacity levels and for their needs for rehabilitation and ability to lead a constructive life. The bill would require the department to provide each inmate with educational, vocational, and rehabilitation programs in order to prepare each inmate to lead a self-sufficient life without posing a threat to public safety. The bill would state the intent of the Legislature that these programs be fully funded and that the Inspector General annually monitor and assess the programs.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 2933 of the Penal Code is amended to~~
2 ~~read:~~
3 ~~2933. (a) It is the intent of the Legislature that persons~~
4 ~~convicted of a crime and sentenced to the state prison under~~
5 ~~Section 1170 serve the entire sentence imposed by the court,~~
6 ~~except for a reduction in the time served in the custody of the~~
7 ~~Secretary of Corrections and Rehabilitation for performance in~~
8 ~~work, training or education programs established by the~~
9 ~~secretary. Worktime credits shall apply for performance in work~~
10 ~~assignments and performance in elementary, high school, or~~
11 ~~vocational education programs. Enrollment in a two- or four-year~~
12 ~~college program leading to a degree shall result in the application~~
13 ~~of time credits equal to that provided in Section 2931. For every~~
14 ~~six months of full-time performance in a credit qualifying~~
15 ~~program, as designated by the secretary, an inmate shall be~~
16 ~~awarded worktime credit reductions from his or her term of~~
17 ~~confinement of six months. A lesser amount of credit based on~~

1 ~~this ratio shall be awarded for any lesser period of continuous~~
2 ~~performance. Less than maximum credit should be awarded~~
3 ~~pursuant to regulations adopted by the secretary for inmates not~~
4 ~~assigned to a full-time credit qualifying program. Every inmate~~
5 ~~who refuses to accept a full-time credit qualifying assignment or~~
6 ~~who is denied the opportunity to earn worktime credits pursuant~~
7 ~~to subdivision (a) of Section 2932 shall be awarded no worktime~~
8 ~~credit reduction. Every inmate who voluntarily accepts a~~
9 ~~half-time credit qualifying assignment in lieu of a full-time~~
10 ~~assignment shall be awarded worktime credit reductions from his~~
11 ~~or her term of confinement of three months for each six-month~~
12 ~~period of continued performance. Under no circumstances shall~~
13 ~~any inmate receive more than six months' credit reduction for~~
14 ~~any six-month period under this section.~~

15 ~~(b) Worktime credit is a privilege, not a right. Worktime credit~~
16 ~~must be earned and may be forfeited pursuant to the provisions of~~
17 ~~Section 2932. The application of credit to reduce the sentence of~~
18 ~~an inmate who committed a crime on or after January 1, 1997, is~~
19 ~~subject to the provisions of Section 3067. Except as provided in~~
20 ~~subdivision (a) of Section 2932, every inmate shall have a~~
21 ~~reasonable opportunity to participate in a full-time credit~~
22 ~~qualifying assignment in a manner consistent with institutional~~
23 ~~security and available resources.~~

24 ~~(c) Under regulations adopted by the Department of~~
25 ~~Corrections and Rehabilitation, which shall require a period of~~
26 ~~not more than one year free of disciplinary infractions, worktime~~
27 ~~credit which has been previously forfeited may be restored by the~~
28 ~~secretary. The regulations shall provide for separate~~
29 ~~classifications of serious disciplinary infractions as they relate to~~
30 ~~restoration of credits, the time period required before forfeited~~
31 ~~credits or a portion thereof may be restored, and the percentage~~
32 ~~of forfeited credits that may be restored for these time periods.~~
33 ~~For credits forfeited for commission of a felony specified in~~
34 ~~paragraph (1) of subdivision (a) of Section 2932, the department~~
35 ~~may provide that up to 180 days of lost credit shall not be~~
36 ~~restored and up to 90 days of credit shall not be restored for a~~
37 ~~forfeiture resulting from conspiracy or attempts to commit one of~~
38 ~~those acts. No credits may be restored if they were forfeited for a~~
39 ~~serious disciplinary infraction in which the victim died or was~~
40 ~~permanently disabled. Upon application of the inmate and~~

~~following completion of the required time period free of disciplinary offenses, forfeited credits eligible for restoration under the regulations for disciplinary offenses other than serious disciplinary infractions punishable by a credit loss of more than 90 days shall be restored unless, at a hearing, it is found that the inmate refused to accept or failed to perform in a credit qualifying assignment, or extraordinary circumstances are present that require that credits not be restored. “Extraordinary circumstances” shall be defined in the regulations adopted by the secretary. However, in any case in which worktime credit was forfeited for a serious disciplinary infraction punishable by a credit loss of more than 90 days, restoration of credit shall be at the discretion of the secretary.~~

~~The inmate may appeal the finding through the Department of Corrections and Rehabilitation review procedure, which shall include a review by an individual independent of the institution who has supervisory authority over the institution.~~

~~(d) The provisions of subdivision (c) shall also apply in cases of credit forfeited under Section 2931 for offenses and serious disciplinary infractions occurring on or after January 1, 1983.~~

~~SEC. 2.~~

~~SECTION 1.~~ Section 2933.7 is added to the Penal Code, to read:

2933.7. (a) (1) Notwithstanding any other section of law, an inmate assigned to a work, school, or vocational program as provided in subdivision (a) of Section 2933 shall earn credits for the program only if the inmate is an active participant and completes the program. An inmate who elects to leave the program prior to its completion without good cause or who is removed from the program due to misconduct or inadequate effort is ineligible for program credits. However, if an inmate leaves a program for good cause, he or she may retain any credits earned until he or she completes that program, at which time he or she shall receive all applicable credits.

(2) For the purposes of this section “active participant” means the inmate meaningfully, regularly, and continuously engages in the activities of the program, as prescribed by the Department of Corrections and Rehabilitation.

(b) The Department of Corrections and Rehabilitation shall adopt regulations, in consultation with the Corrections Standards

1 Authority, concerning credits pursuant to this section. It is the
2 intent of the Legislature to encourage inmates to complete
3 assigned work, school, or vocational programs to the extent
4 possible, with the goal of reducing recidivism. It is not the intent
5 of the Legislature to penalize an inmate who may, for good
6 cause, be unable to complete a program.

7 (c) The office of the Inspector General shall evaluate the
8 impact of this crediting policy on program completion, sentence
9 reduction, and the success upon reentry of prison inmates
10 affected by the policy, and shall report its findings annually to
11 the Legislature and Governor.

12 ~~SEC. 3.~~

13 *SEC. 2.* Section 2933.8 is added to the Penal Code, to read:

14 2933.8. (a) For each person who is sentenced to the
15 Department of Corrections and Rehabilitation for a felony
16 conviction on or after January 1, 2007, both of the following
17 shall apply:

18 (1) The department shall evaluate the inmate for his or her
19 educational and vocational level of development and capacity
20 and shall comprehensively evaluate the inmate with respect to his
21 or her need for rehabilitation and ability to lead a constructive
22 life.

23 (2) Based on the evaluations conducted pursuant to paragraph
24 (1), the Department of Corrections and Rehabilitation shall
25 prescribe and implement for each inmate a comprehensive
26 rehabilitation program that addresses his or her level of
27 educational development, vocational development, and need for
28 rehabilitation, so as to better equip him or her to lead a
29 constructive life without posing a threat to public safety upon his
30 or her release from prison, as follows:

31 (A) The educational program shall be provided, insofar as the
32 length of sentence allows, to enable each inmate to qualify to
33 pass the California high school equivalency certificate test and to
34 obtain a California high school equivalency certificate, or high
35 school equivalent, while the inmate is incarcerated, if he or she
36 has not yet advanced to that educational level.

37 (B) The rehabilitation program shall be provided to prepare
38 the inmate to lead a self-sufficient life without posing a threat to
39 public safety.

1 (C) The vocational program shall be provided to equip each
2 inmate with vocational skills to assist him or her to maintain a
3 self-sufficient life without posing a threat to public safety.

4 (b) Every inmate in the custody of the Department of
5 Corrections and Rehabilitation prior to January 1, 2007, except
6 for inmates who are serving a sentence of imprisonment for life
7 without the possibility of parole, shall be subject to this section
8 unless the law requires them to be released within 12 months.

9 (c) It is the intent of the Legislature that this program be
10 sufficiently funded and fully implemented so that each inmate is
11 enabled to prepare himself or herself to reenter our community
12 and live constructively without posing a threat to public safety.

13 (d) To the extent that funds are appropriated for this purpose,
14 the department shall accord highest priority and greatest
15 resources in expending funds made available for this purpose, to
16 those inmates who are nearest to release from custody.

17 (e) It is the intent of the Legislature that this program be
18 annually monitored and assessed by the office of the Inspector
19 General, which shall annually report to the Legislature and
20 Governor on the following:

21 (1) The efficiency of in-prison rehabilitation programs in
22 meeting the program's purpose, goals, and mandates.

23 (2) Identify deficiencies and proposed improvements to the
24 programs.

25 (3) Whether the program is proving successful in reducing
26 recidivism and improving the public safety of Californians.

27 (f) None of the provisions of this section shall be construed to
28 create any inmate rights that may be enforced by writ or
29 otherwise.

30 (g) The provisions of this section are severable. Should any
31 subdivision be deemed unconstitutional by a court of competent
32 jurisdiction, the remaining provisions of this section shall
33 survive.

34 ~~SEC. 4.~~

35 *SEC. 3.* Section 2933.9 is added to the Penal Code, to read:

36 2933.9. (a) The rehabilitation plan enumerated in Section
37 2933.8 shall include an inmate exit plan component.

38 (b) The exit plan shall contain all of the following items:

39 (1) The inmate's proposed principal residence.

1 (2) The inmate's proposed place of employment, or source of
2 lawful income, or educational or vocational program.

3 (3) The inmate's plan of continued treatment or rehabilitation,
4 as needed.

5 (4) The inmate's plan for compliance with all standard and
6 special parole conditions.

7 (5) Any other provisions or requirements the department
8 deems necessary to assist the inmate to reenter our community
9 and live constructively without posing a threat to public safety.

10 (c) For those inmates sentenced after the effective date of the
11 bill enacting this section, any credits earned may not be applied
12 to reduce his or her sentence until all of the following
13 requirements are met:

14 (1) Completion of the rehabilitation plan in Section 2933.8.

15 (2) Review and approval by the department of the inmate's
16 exit plan.

17 (3) Completion of an exit conference in which the inmate is
18 presented with a report enumerating all of the following:

19 (A) Conditions of parole.

20 (B) Any special registration requirements.

21 (C) The inmate's "three strikes" status and consequences of
22 further violation.

23 (D) Medical, counseling, and training resources available upon
24 parole.

25 (4) The inmate's acknowledgment and signature of each
26 element of the report enumerated above.